

**Staff  
Summary  
Report**



**To: Mayor & City Council**  
**Through: City Manager**

**Agenda Item Number 63a**  
**Meeting Date 11/18/99**

**SUBJECT:** Request adoption of Resolution 99.66

**PREPARED BY:** Jan Koehn, Code Enforcement Manager (x8076)

**REVIEWED BY:** Randy Hurlburt, Development Services Director (x8530)

**BRIEF:** Resolution amending Resolution 99.57 by specifying reasonable time periods for compliance for violations of Ordinance No. 99.35.

**COMMENTS:** **CITY CODE (0503) RESOLUTION NO. 99.66** Resolution No. 99.66 provides enforcement procedures for the enforcement of the Nuisance and Property Enhancement Ordinance No. 99.35. Resolution 99.57, as passed on September 30, 1999 states that thirty (30) days is a reasonable time period for compliance. This is a request to revise this thirty day time period and replace it with a table of minimum time periods for compliance.

**Document Name:** 991118devjk01

**Supporting Documents:** No

**SUMMARY:** At the September 30, 1999 City Council meeting, the Council approved Resolution 99.57. This resolution provides procedures for the enforcement of the Nuisance and Property Enhancement Ordinance, No.99.35. The approved resolution states "that a reasonable time period for compliance will be thirty (30) days". After reviewing the code provisions that this resolution is applicable to, staff feels that this thirty day time period conflicts with some of the code provisions that state lesser periods of time and that in some circumstances, a time period of less than 30 days may offer a greater benefit to the community. The following table provides suggested time periods for compliance based upon each code provision and a reasonable time period to achieve compliance. Staff is requesting that City Council amend Resolution 99.57 to reflect this table of reasonable time periods.

**FISCAL NOTE:** None

**RECOMMENDATION:** The Development Services Department recommends approval of the attached resolution (99.66)

## **RESOLUTION NO. 99.66**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, ESTABLISHING RULES AND REGULATIONS FOR THE NUISANCE AND PROPERTY ENHANCEMENT CODE AND SETTING A FEE FOR REINSPECTION.**

WHEREAS , the City Council has determined that regulation of nuisances and property maintenance standards is a necessary component of neighborhood preservation; and

WHEREAS, the City Council has hereby found and declared that there are properties within the City of Tempe which constitute a nuisance, are poorly maintained or deteriorated, cause blighted conditions in the community, or pose a threat to the health, safety, and welfare of the citizens and inhabitants of the city; and

WHEREAS, the Development Service Department is authorized, pursuant to City Code 21-6 (a), to carry out the provisions of the Nuisance and Property Enhancement Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AS FOLLOWS:

Section 1. Establishing Rules and Regulations for the Nuisance and Property Enhancement Code;

#### **I. Purpose**

It is the stated intent of the Nuisance and Property Enhancement Code to protect the health, safety and welfare of residents; to protect neighborhoods from deterioration; and to accomplish these purposes in a manner consistent with compliance with this code. The inspection procedures set forth in the Resolution are established in the public interest to secure the health, safety and general welfare of the general public.

#### **II. General**

The primary goals of these regulations are education, voluntary compliance after inspection and notice, and progressive enforcement until compliance is obtained.

#### **III. Administrative Procedures**

A. An enforcement action may be initiated in the following two ways:

1. *Enforcement initiated without complaint:*

a. Exterior conditions in violation of the Nuisance and Property Enhancement Code may be the subject of direct enforcement by the code inspector if the violation is visible from public property. Visible from public property means

that the violation is not screened by an opaque fence at least five (5) feet in height or the height of the condition, whichever is greater.

- b. If a violation is not visible from public property, but presents a health or safety hazard, it may be pursued by the code inspector without a complaint from a citizen.
2. *Enforcement initiated by complaint:* Violations of the Code, visible from public property or not, made known to the enforcement office may be the subject of an enforcement action. Complainants need not identify themselves to the enforcement office with the exception of barking dog complaints, which requires a petition process be followed.

B. Enforcement Action will proceed in progressive steps as follows:

1. Inspection of alleged violation. If no violation is found the case is closed.
2. If a violation is found by the inspector and the party has not been found responsible by the court for three or more civil violations within the previous 24 months, the owner, occupant or manager of the property will receive a written notice of the violation and a reasonable time period, to comply will be granted. **By way of example and without limitation, the attached table provides examples of reasonable time periods.**
3. For violations of 21-3 (b)(1)(C)(ii), a written notice provided for vehicles under repair may be issued advising that auto repairs must be completed within fourteen days after the repair was begun. A civil citation may be issued if the auto repair exceeds fourteen days either from the date the repair was begun or after this advisement.
4. Any person who neglects, fails or refuses to correct the violations contained within a written notice may be assessed a reinspection fee(s) for inspections which occur after the compliance date.
5. In addition to any reinspection fees charged, the owner, occupant or manager may also be issued a civil citation if they neglect, fail, or refuse to correct the violation by the compliance date indicated on the written notice.
6. An abatement proceeding may be commenced after notice as mandated by Section 21-15 of the Tempe City Code has been served. The abatement action may be in addition to or in lieu of civil citation, criminal complaint or reinspection fees.
7. If the party has been found responsible for three or more civil violations within the previous 24 months, the enforcement office may commence a criminal action as authorized by Chapter 21 of the Tempe City Code.
8. If an immediate threat to the health or safety of the public is present, the EO may directly proceed with abatement or citation.
9. Upon issuance of a civil citation, the EO will not issue additional citations for that violation, until the initial citation has been adjudicated in the Tempe Municipal Court, unless an immediate threat to the health or safety of the public is present.

#### Section IV. Establishing Fees for Reinspection of Properties

1. A reinspection fee is hereby established at \$75.00 for each reinspection where compliance has not been attained.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this \_\_\_\_ day of \_\_\_\_, 1999.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Code Section	Suggested Minimum Time Frame for Corrective Action
21-3-b-1 Household trash and debris	14
Junk/larger items	30
21-3-b-2 Junkyards	30
21-3-b-3 Inoperable or unregistered vehicles	14
21-3-b-4 Lawn Parking - running, operable vehicles	1 day
Inoperable vehicles	14 days
21-3-b-5 Storing or leaving of contractor equipment/machinery (back yard)	30 days
In front yard	14 days
21-3-b -6 Excessive animal waste	7 days
21-3-b-7 Obstructions to right-of-way	14 days
21-3-b-8 Deteriorated Landscaping	30 days
Tall weeds or grass	14 days
Dead trees or limbs	30 days
Excessive palm fronds	30 days
21-3-b-9 Dangerous, deteriorated, or unsecured buildings	30 days (immediate if health/safety/welfare issue, life threatening or transient occupied)

Code Section	Suggested Minimum Time Frame for Corrective Action
21-3-b-10 Sewage or offal	7 days
21-3-b-11 Noxious fumes or exhalations	14 days (immediate if health/safety/welfare issue)
21-3-b-12 Burning of refuse	Immediate
21-3-b-13 Unsafe excavations	7 days (less if health/safety/welfare issue or life-threatening)
21-3-b-14 Unattended refrigerators	Immediate
21-3-b-15 Deteriorated walls or fences	30 days
21-3-b-16 Unenclosed swimming pools	Immediate
Unsecured swimming pool gates	Immediate
21-3-b-17 Noise, vibration or illumination	Immediate, if structural or mechanical repair is not necessary
21-3-b-18 Flow of water into right-of-way	Immediate
21-3-b-19 Barking dogs	14 days
21-4-1 (PROPOSED) Commercial vehicles	14 days
21-4-2 a. Unprotected wood surfaces	30 days
21-4-2 b. Chipping/peeling paint	30 days
21-4-2 c. Deteriorated roofs	30 days
21-4-2 d. Compatible materials	30 days
21-4-3 Required Addresses	30 days
21-4-4 Garage Sales	Immediate if 5 days of sale has been exceeded.

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**MEMORANDUM**

TO: Mayor and Council

FROM: Karen Huffman, Senior Accountant

THROUGH: Rich Oesterle, Management Services Director

DATE: October 27, 1999

SUBJECT: **Declaration of Intent to Reimburse Expenditures with  
Tax-Exempt Bonds**

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In calendar year 2000, the City of Tempe will be issuing \$7.1 million in Excise Tax Revenue Obligations which will be used to fund Capital Improvement Program projects budgeted for fiscal year 1999-00.

Different Internal Revenue Service regulations affect the sale and ultimate use of bonds. One set of guidelines regulate the reimbursements to the City for projects under construction or completed. Another set of arbitrage regulations covers the future use of bonds for projects begun after the sale of tax-exempt bonds.

On June 1, 1995, the City Council designated the Management Services Director (Resolution 95.35) as the responsible official to declare, on behalf of the City, those projects we intend to either partially or in total reimburse the City with proceeds from tax-exempt Excise Tax Revenue Obligation.

The attached report lists the projects which we reasonably expect will require some reimbursement. The list is on file in the Management Services Department, and, as requested by Bond Counsel, is being reported to Council for your information.

If you have any questions with respect to the attached report, please contact Rich Oesterle at extension 8347.

**DECLARATION OF OFFICIAL INTENT UNDER TREASURY REGULATION  
SECTION 1.150-2 TO REIMBURSE AN EXPENDITURE WITH PROCEEDS OF  
TAX-EXEMPT BONDS**

The undersigned is the Management Services Director for the City of Tempe, Arizona (the "City"), and has been designated by the Mayor and Council of the City to declare official intent on behalf of the City with respect to the reimbursement of expenditures with proceeds of tax-exempt bonds.

**Section 1. Declaration of Official Intent.** The undersigned hereby declares under Treasury Regulation 1.150-2 the official intent of the City to reimburse the following capital expenditures with the proceeds of tax-exempt bonds.

	<u>Description of Expenditure</u>	<u>Expected Date of Payment</u>	<u>Amount of Expenditure</u>
(1)	<b>Seventh Street &amp; Mill Redevelopment</b> This project provides for a developer constructed parking structure and enhanced pedestrian area in conjunction with a private mixed-use development that will be constructed over the parking structure.	FY 99-00	\$7,100,000

**Section 2. Timeliness of Declaration.** This declaration is being made not later than sixty days after payment of expenditures to be reimbursed.

**Section 3. Project Description.**

(1)	Description:	General Governmental Improvements
	Project Number:	Fund 67
	Fund:	General Governmental

**Section 4. Maximum Principal Amount.** The maximum principal amount of obligations expected to be issued for the projects described in Section 3 above is \$7,100,000.00.

**Section 5. Reasonable Expectation to Reimburse.** This Declaration as of its date is consistent with the budgetary and financial circumstances of the City and the City reasonably expects to reimburse the expenditures described in Section 1 with the proceeds of tax-exempt bonds.

Dated: 11/3/99

  
Management Services Director,  
City of Tempe, Arizona